
Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style~~ type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution. Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1235

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 16-18-2-194.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 194.5. "Isolation", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction, of an individual or a group of individuals from the general public if the individual or group is infected with a dangerous communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), in order to prevent or limit the transmission of the disease to an uninfected individual.**

SECTION 2. IC 16-18-2-298.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 298.5. "Public health authority", for purposes of IC 16-22-8 and IC 16-41-9, means:**
 (1) the state health commissioner of the state department;
 (2) a deputy or an assistant state health commissioner appointed by the state health commissioner, or an agent expressly authorized by the state health commissioner;

(3) the local health officer; or
(4) a health and hospital corporation established under IC 16-22-8-6.

SECTION 3. IC 16-18-2-302.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 302.6. "Quarantine", for purposes of IC 16-41-9, means the physical separation, including confinement or restriction of movement, of an individual or a group of individuals who have been exposed to a dangerous communicable disease (as described in IC 16-18-2-91 and 410 IAC 1-2.3-47), during the disease's period of communicability, in order to prevent or limit the transmission of the disease to an uninfected individual.

SECTION 4. IC 16-21-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. With the approval of the budget director and upon the recommendation of the budget committee, each county that has incurred costs for a carrier ~~(other than costs incurred under IC 16-41-9-11)~~ under:

- (1) IC 16-41-1;
- (2) IC 16-41-2;
- (3) IC 16-41-3;
- (4) IC 16-41-5;
- (5) IC 16-41-6;
- (6) IC 16-41-7;
- (7) IC 16-41-8;
- (8) IC 16-41-9; or
- (9) IC 16-41-13;

is entitled to a pro rata share of the money remaining at the end of the state fiscal year in the fund established under this chapter.

SECTION 5. IC 16-22-8-31, AS AMENDED BY HEA 1395-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 31. (a) The director of the division of public health has the powers, functions, and duties of a local health officer.

(b) Orders, citations, and administrative notices of violation issued by the director of the division of public health, the director's authorized representative, a supervisor in the division, or an environmental health specialist may be enforced by the corporation in a court with jurisdiction by filing a civil action in accordance with IC 16-42-5-28, IC 33-36-3-5(b), or IC 36-1-6-4.

(c) ~~Orders, health directives, and restrictions issued by the state health commissioner, the state health commissioner's legally authorized~~

~~agent, a designated health official, or the director of the division of public health~~ A public health authority may be enforced by the corporation in a petition a circuit or superior court with jurisdiction for an order of isolation or quarantine by filing a civil action in accordance with ~~IC 16-41-9-1 or IC 16-41-9-11.~~ IC 16-41-9.

(d) Unless otherwise provided by law, a change of venue from the county may not be granted for court proceedings initiated under this section.

(e) A change of venue from a judge must meet the requirements in IC 34-35-3-3 for court proceedings initiated under this section.

SECTION 6. IC 16-41-9-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 1.5. (a) If the public health authority has reason to believe that:**

(1) an individual:

(A) has been infected with; or

(B) has been exposed to;

a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the public health authority may petition a circuit or superior court for an order imposing isolation or quarantine on the individual. A petition for isolation or quarantine filed under this subsection must be verified and include a brief description of the facts supporting the public health authority's belief that isolation or quarantine should be imposed on an individual, including a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(b) Except as provided in subsections (e) and (k), an individual described in subsection (a) is entitled to notice and an opportunity to be heard, in person or by counsel, before a court issues an order imposing isolation or quarantine. A court may restrict an individual's right to appear in person if the court finds that the individual's personal appearance is likely to expose an uninfected person to a dangerous communicable disease or outbreak.

(c) If an individual is restricted from appearing in person under subsection (b), the court shall hold the hearing in a manner that allows all parties to fully and safely participate in the proceedings

under the circumstances.

(d) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;

the court may issue an order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(e) If the public health authority has reason to believe that an individual described in subsection (a) is likely to expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard, the public health authority may seek in a circuit or superior court an emergency order of quarantine or isolation by filing a verified petition for emergency quarantine or isolation. The verified petition must include a brief description of the facts supporting the public health authority's belief

that:

(1) isolation or quarantine should be imposed on an individual; and
(2) the individual may expose an uninfected individual to a dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard.

The verified petition must include a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(f) If the public health authority proves by clear and convincing evidence that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak;

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual; and

(3) the individual may expose an uninfected individual to a

dangerous communicable disease or outbreak before the individual can be provided with notice and an opportunity to be heard; the court may issue an emergency order imposing isolation or quarantine on the individual. The court shall establish the duration and other conditions of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(g) A court may issue an emergency order of isolation or quarantine without the verified petition required under subsection (e) if the court receives sworn testimony of the same facts required in the verified petition:

(1) in a nonadversarial, recorded hearing before the judge;

(2) orally by telephone or radio;

(3) in writing by facsimile transmission (fax); or

(4) through other electronic means approved by the court.

If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (2), the court shall direct the public health authority to sign the judge's name and to write the time and date of issuance on the proposed emergency order. If the court agrees to issue an emergency order of isolation or quarantine based upon information received under subdivision (3), the court shall direct the public health authority to transmit a proposed emergency order to the court, which the court shall sign, add the date of issuance, and transmit back to the public health authority. A court may modify the conditions of a proposed emergency order.

(h) If an emergency order of isolation or quarantine is issued under subsection (g)(2), the court shall record the conversation on audiotape and order the court reporter to type or transcribe the recording for entry in the record. The court shall certify the audiotape, the transcription, and the order retained by the judge for entry in the record.

(i) If an emergency order of isolation or quarantine is issued under subsection (g)(3), the court shall order the court reporter to retype or copy the facsimile transmission for entry in the record. The court shall certify the transcription or

copy and order retained by the judge for entry in the record.

(j) The clerk shall notify the public health authority who received an emergency order under subsection (g)(2) or (g)(3) when the transcription or copy required under this section is

entered in the record. The public health authority shall sign the typed, transcribed, or copied entry upon receiving notice from the court reporter.

(k) The public health authority may issue an immediate order imposing isolation or quarantine on an individual if exigent circumstances, including the number of affected individuals, exist that make it impracticable for the public health authority to seek an order from a court, and obtaining the individual's voluntary compliance is or has proven impracticable or ineffective. An immediate order of isolation or quarantine expires after seventy-two (72) hours, excluding Saturdays, Sundays, and legal holidays, unless renewed in accordance with subsection (l). The public health authority shall establish the other conditions of isolation or quarantine. The public health authority shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public. If the immediate order applies to a group of individuals and it is impracticable to provide individual notice, the public health authority shall post a copy of the order where it is likely to be seen by individuals subject to the order.

(l) The public health authority may seek to renew an order of isolation or quarantine or an immediate order of isolation or quarantine issued under this section by doing the following:

(1) By filing a petition to renew the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with:

(A) the court that granted the emergency order of isolation or quarantine; or

(B) a circuit or superior court, in the case of an immediate order.

The petition for renewal must include a brief description of the facts supporting the public health authority's belief that the individual who is the subject of the petition should remain in isolation or quarantine and a description of any efforts the public health authority made to obtain the individual's voluntary compliance with isolation or quarantine before filing the petition.

(2) By providing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine with a copy of the petition and notice of the hearing at least twenty-four (24) hours

before the time of the hearing.

(3) By informing the individual who is the subject of the emergency order of isolation or quarantine or the immediate order of isolation or quarantine that the individual has the right to:

(A) appear, unless the court finds that the individual's personal appearance may expose an uninfected person to a dangerous communicable disease or outbreak;

(B) cross-examine witnesses; and

(C) counsel, including court appointed counsel in accordance with subsection

(c).

(4) If:
(A) the petition applies to a group of individuals; and
(B) it is impracticable to provide individual notice;
by posting the petition in a conspicuous location on the isolation or quarantine premises.

(m) If the public health authority proves by clear and convincing evidence at a hearing under subsection (l) that:

(1) an individual has been infected or exposed to a dangerous communicable disease or outbreak; and

(2) the individual is likely to cause the infection of an uninfected individual if the individual is not restricted in the individual's ability to come into contact with an uninfected individual;
the court may renew the existing order of isolation or quarantine or issue a new order imposing isolation or quarantine on the individual. The court shall establish the conditions of isolation or quarantine, including the duration of isolation or quarantine. The court shall impose the least restrictive conditions of isolation or quarantine that are consistent with the protection of the public.

(n) Unless otherwise provided by law, a petition for isolation or quarantine, or a petition to renew an immediate order for isolation or quarantine, may be filed in a circuit or superior court in any county. Preferred venue for a petition described in this subsection is:

(1) the county or counties (if the area of isolation or quarantine includes more than one (1) county) where the individual, premises, or location to be isolated or quarantined is located; or

(2) a county adjacent to the county or counties (if the area of isolation or quarantine includes more than one (1) county)

where the individual, premises, or location to be isolated or quarantined is located. This subsection does not preclude a change of venue for good cause shown.

(o) Upon the motion of any party, or upon its own motion, a court may consolidate cases for a hearing under this section if:

(1) the number of individuals who may be subject to isolation or quarantine, or who are subject to isolation or quarantine, is so large as to render individual participation impractical;

(2) the law and the facts concerning the individuals are similar; and

(3) the individuals have similar rights at issue.

A court may appoint an attorney to represent a group of similarly situated individuals if the individuals can be adequately represented. An individual may retain his or her own counsel or proceed pro se.

(p) A public health authority that imposes a quarantine that is not in the person's home:

(1) shall allow the parent or guardian of a child who is quarantined under this section; and

(2) may allow an adult;
to remain with the quarantined individual in quarantine. As a condition of remaining with the quarantined individual, the public health authority may require

a person described in subdivision (2) who has not been exposed to a dangerous communicable disease to receive an immunization or treatment for the disease or condition, if an immunization or treatment is available and if requiring immunization or treatment does not violate a constitutional right.

(q) If an individual who is quarantined under this section is the sole parent or guardian of one (1) or more children who are not quarantined, the child or children shall be placed in the residence of a relative, friend, or neighbor of the quarantined individual until the quarantine period has expired. Placement under this subsection must be in accordance with the directives of the parent or guardian, if possible.

(r) State and local law enforcement agencies shall cooperate with the public health authority in enforcing an order of isolation or quarantine.

(s) The court shall appoint an attorney to represent an indigent individual in an action brought under this chapter or under IC 16-41-6. If funds to pay for the court appointed attorney are not

available from any other source, the state department may use the proceeds of a grant or loan to reimburse the county, state, or attorney for the costs of representation.

(t) A person who knowingly or intentionally violates a condition of isolation or quarantine under this chapter commits violating quarantine or isolation, a Class A misdemeanor.

(u) The state department shall adopt rules under IC 4-22-2 to implement this section, including rules to establish guidelines for:

- (1) voluntary compliance with isolation and quarantine;
- (2) quarantine locations and logistical support; and
- (3) moving individuals to and from a quarantine location.

The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

SECTION 7. IC 16-41-9-1.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.6. (a) A public health authority may impose or petition a court to impose a quarantine and do the following:

- (1) Distribute information to the public concerning:
 - (A) the risks of the disease;
 - (B) how the disease is transmitted;
 - (C) available precautions to reduce the risk of contracting the disease;
 - (D) the symptoms of the disease; and
 - (E) available medical or nonmedical treatments available for the disease.
- (2) Instruct the public concerning social distancing.
- (3) Request that the public inform the public health authority or a law enforcement agency if a family member contracts the disease.
- (4) Instruct the public on self quarantine and provide a distinctive means of identifying a home that is self quarantined.
- (5) Instruct the public on the use of masks, gloves, disinfectant, and other means of reducing exposure to the disease.
- (6) Close schools, athletic events, and other nonessential situations in which

people gather.

(7) If a quarantine is imposed under section 1.5 of this chapter, the public health authority shall ensure that, to the extent possible, quarantined individuals have sufficient

supplies to remain in their own home.

(b) If an out of home, nonhospital quarantine is imposed on an individual, the individual shall be housed as close as possible to the individual's residence.

(c) In exercising the powers described in this section or in section 1.5 of this chapter, the public health authority may not prohibit a person lawfully permitted to possess a firearm from possessing one (1) or more firearms unless the person is quarantined in a mass quarantine location. The public health authority may not remove a firearm from the person's home, even if the person is quarantined in a mass quarantine location.

(d) This section does not prohibit a public health authority from adopting rules and enforcing rules to implement this section if the rules are not inconsistent with this section.

SECTION 8. IC 16-41-9-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1.7. (a) An immunization program established by a public health authority to combat a public health emergency involving a dangerous communicable disease must comply with the following:

(1) The state department must develop and distribute or post information concerning the risks and benefits of immunization.

(2) No person may be required to receive an immunization without that person's consent. No child may be required to receive an immunization without the consent of the child's parent, guardian, or custodian. The state department may implement the procedures described in section 1.5 of this chapter concerning a person who refuses to receive an immunization or the child of a parent, guardian, or custodian who refuses to consent to the child receiving an immunization.

(b) The state department shall adopt rules to implement this section. The absence of rules adopted under this subsection does not preclude the public health authority from implementing any provision of this section.

SECTION 9. IC 16-41-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) ~~A designated health official~~ **The local health officer** may file a report with the court that states that a carrier who has been detained under this article may be discharged without danger to the health or life of others.

(b) The court may enter an order of release based on information

presented by the ~~designated health official~~ **local health officer** or other sources.

SECTION 10. IC 16-41-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The court shall determine what part of the cost of care or treatment ordered by the court, if any, the carrier can pay and whether there are other available sources of public or private funding responsible for payment of the carrier's care or treatment. The carrier shall provide the court documents and other information necessary to determine financial ability. If the carrier cannot pay the full cost

of care and other sources of public or private funding responsible for payment of the carrier's care or treatment are not available, the county is responsible for the cost. If the carrier:

(1) provides inaccurate or misleading information; or
(2) later becomes able to pay the full cost of care;
the carrier becomes liable to the county for costs paid by the county.

(b) Except as provided in subsections (c) and (d), the costs incurred by the county under this chapter are limited to the costs incurred under ~~section 11~~ **section 1.5** of this chapter.

(c) However, subsection (b) does not relieve the county of the responsibility for the costs of a carrier who is ordered by the court under this chapter to a county facility.

(d) Costs, other than costs described in subsections (b) and (c) that are incurred by the county for care ordered by the court under this chapter, shall be reimbursed by the state under IC 16-21-7 to the extent funds have been appropriated for reimbursement.

SECTION 11. IC 16-42-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) An organization that is:

(1) organized for nonreligious or noneducational purposes;
(2) exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D); and
(3) that offers food for sale to the final consumer at an event held for the benefit of the

organization;
is exempt from complying with the requirements of this chapter that may be imposed upon the sale of food at that event if the following conditions are met:

~~(1) Members of the organization prepare the food that will be sold.~~
~~(2) events conducted by the organization under this section take~~

place for not more than thirty (30) days in a calendar year.

~~(3) The name of each member who has prepared a food item is attached to the container in which the food item has been placed.~~

(b) An organization:
(1) that is organized for:
(A) religious; or
(B) educational purposes in a non-public educational setting;
(2) that is exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D); and
(3) that offers food for sale to the final consumer at an event held for the benefit of the organization;
is exempt from complying with the requirements of this chapter that may be imposed upon the sale of food at that event unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(c) A restaurant or cafeteria setting described in subsection (b) does not include the following:

(1) A pitch in.
(2) A bake sale.

(3) A fish fry, chili supper, spaghetti supper, or similar event with a limited menu.

- (4) Food prepared by a licensed retail food establishment.
- (5) A concession stand.
- (6) Heating or serving precooked foods.
- (7) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.
- (8) Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice.
- (9) Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans.
- (10) Providing prepackaged food in the food's original package.
- (b) (d) This section does not prohibit an exempted organization from waiving the exemption and applying for a license under this chapter.
- (e) It is recommended that an organization that is exempt under this section should still follow safe food handling practices.

(f) This section expires January 1, 2008.

SECTION 12. IC 34-6-2-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 55. (a) "Health care services", for purposes of IC 34-30-13, has the meaning set forth in IC 27-13-1-18(a).

(b) "Health care services", for purposes of IC 34-30-13.5, means:

- (1) any services provided by an individual licensed under:
 - (A) IC 25-2.5;
 - (B) IC 25-10;
 - (C) IC 25-13;
 - (D) IC 25-14;
 - (E) IC 25-22.5;
 - (F) IC 25-23;
 - (G) IC 25-23.5;
 - (H) IC 25-23.6;
 - (I) IC 25-24;
 - (J) IC 25-26;
 - (K) IC 25-27;
 - (L) IC 25-27.5;
 - (M) IC 25-29;
 - (N) IC 25-33;
 - (O) IC 25-34.5; or
 - (P) IC 25-35.6;
- (2) services provided as the result of hospitalization;
- (3) services incidental to the furnishing of services described in subdivisions (1) or (2);
- (4) any services by individuals certified as:
 - (A) paramedics;
 - (B) emergency medical technicians-intermediate;
 - (C) emergency medical technicians-advanced;

- (D) emergency medical technicians basic-advanced; or
- (E) emergency medical technicians under IC 16-31-2;
- (5) any services provided by individuals certified as first responders under IC 16-31-2; or
- (6) any other services or goods furnished for the purpose of preventing, alleviating, curing, or healing human illness, physical disability, or injury.

SECTION 13. IC 34-30-13.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]:

Chapter 13.5. Health Care: Immunity for Persons Providing Services in a Disaster

Sec. 1. Except as provided in section 2 of this chapter, a person who meets the following criteria may not be held civilly liable for an act or omission relating to the provision of health care services in response to an event that is declared a disaster emergency under IC 10-14-3-12, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency:

- (1) Has a license to provide health care services under Indiana law or the law of another state.
- (2) Provides a health care service:
 - (A) within the scope of the person's license to another person; and
 - (B) at a location where health care services are provided during an event that is declared as a disaster.

Sec. 2. A person described in this chapter is not immune from civil liability if the damages resulting from the act or omission relating to the provision of the health care services resulted from the person's gross negligence or willful misconduct.

Sec. 3. A facility or other location that is providing health care services in response to an event that is declared as a disaster emergency may not be held civilly liable for an act or omission relating to the provision of health care services in response to that event by a health professional licensed to provide the health care service under Indiana law or the law of another state if the person is acting during an event that is declared as a disaster emergency, regardless of whether the provision of health care services occurred before or after the declaration of a disaster emergency.

SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2006]: IC 16-41-9-1; IC 16-41-9-2; IC 16-41-9-4; IC 16-41-9-11; IC 16-41-9-14.

SECTION 15. [EFFECTIVE JULY 1, 2006] IC 16-41-9-1.5(t), as added by this act, applies only to crimes committed after June 30, 2006.

SECTION 16. [EFFECTIVE JULY 1, 2006] In carrying out its duties under IC 16-41-9, a public health authority (as defined in IC 16-18-2-298.5, as added by this act) shall attempt to seek the cooperation of cases, carriers, contacts, or suspect cases to implement the least restrictive but medically necessary procedures to protect the public health.

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date:

Time:

HEA 1235

Figure

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